

Government authorities must retain their right to interrupt services of wireless communications when they face violent flash mobs or other group actions that threaten normal transportation. The DART in California made the right decision to turn off wireless communications inside the train station to prevent a protest mob angered at what they believed was police misconduct in a shooting of a suspect from blocking traffic or injuring any passengers. Claims that this endangered people in any way were unfounded, as anyone wishing to make a phone call could walk up out of the train station and use a landline payphone or move away from the area and use their cell phone again.

The FCC should not be making guidelines or establishing norms in any way to impose on private wireless companies as this is outside of its mandate. Existing laws already regulate this business and no more are needed. If there are citizens or groups that have a problem with the way that private businesses or public transportation authorities have handled states of emergency when public safety has been threatened, they can sue those entities in local courts and the judiciary can review the cases and render independent judicial decisions. It is not the job of an agency of the executive branch to make decisions about the First Amendment and its application, or the functioning of local government in handling emergencies.

The First Amendment is not limitless. Restrictions as to time, place, and manner are allowed by local authorities. These are typically imposed so as to prevent traffic jams or blocking of traffic and to ensure public safety. Permits for large parades are sometimes denied or alternate routes are indicated if there is concern about public safety.

By the same token, wireless communications are not open endlessly to be used by rioters, flashmobs, looters, and "direct action" demonstrators to press their causes.

1 b Riots in London last year are a good example of a situation where wireless was used to loot, riot, and destroy property and subject persons to physical harm outside of any notion of "free speech." By using the Blackberry messaging system, rioters were able to coordinate their actions, descend on stores to loot them, evade police, etc. Authorities \*didn't\* shut off wireless at that time, but they are now contemplating it as a policy. This is appropriate, as no basic human rights are abrogated when authorities shut off wireless in a limited area for a limited time. After all, anyone can use the land lines, or cell phones outside the Blackberry messaging system, or go to an Internet cafe or go home to use the Internet with Facebook or Twitter, etc. Public TV and newspapers obviously go on functioning. The right to freedom of expression doesn't mean an endless right to expression always and everywhere on every means of communication, as international law (Art. 19 and Art. 29 of the Universal Declaration of Human Rights) indicate that restrictions to ensure public order are permissible.

While the First Amendment in the US and its jurisprudence are more broad, under the Brandenburg

decision of the Supreme Court, it was recognized that free speech did not extend to "incitement of imminent violence". A riot by a flash mob in the BART station is just such a case of imminent violence when traffic is blocked and passengers prevented from movement and subject to threats and harm.

d) A national blanket determination of what norms should be applied in local limitations of "time, place, and manner" for free speech should not be determined by the FCC or any national executive authority. They are best determined by local police and local courts in cooperation with local branches of wireless communications companies and other public communications bodies.

2.c. Whatever is not determined by the federal authority is left to the states to decide in the federal system. And that's why the FCC has to get out of the business of trying to draw up norms and rules for hypothetical situations, based on the hysterics of this or that lobby concerned about keeping the Internet and telecoms "always on" primarily as a business matter, so that they don't lose ad revenue. That can't be the basis for policy, and the FCC, which has been thrown by these lobbies before (i.e. with "net neutrality") should not be vulnerable to this sort of pressure again on this matter of wireless communications and interruption during emergencies.

3. Implicit in the questions is the notion that shutting off cell phone service for some people in some areas for some time somehow itself subjects the public to danger because they can't use their phones to call for help. This is misleading. No one is entitled to an expectation of continuous uninterrupted use of his cell phone.

If a situation is already critical enough to warrant the shutting down of wireless communications, the first responders such as police and firemen will *\*already\** be on the scene. They don't need to be called and have their own means of communication outside of the commercial wireless network. People take it for granted that they get to call their contacts endlessly whenever they feel like it. But it is not objectively necessary for their safety, and what they should be doing in a situation of a mass riot, a demonstration blocking traffic, etc. is moving out of the area just as quickly as they can. Once they do that, they will either reach land lines or their cell phone will be in a new area where it will work.

Further questions under 3 contain the assumption that there is some sort of negative in temporarily shutting down service in one area.

Can you not remember only five or ten years ago, when not everyone had a cell phone? When they were not the norm? When everybody had to use land lines? The value of "always on connectivity" may be the norm now, but *\*it is not a right\**. It is just one means of exercising freedom of expression, and not the only one.

In an emergency, the most important thing is that people not get in the way of first responders either through carelessness or arrogance. Nothing is gained by a 1,000 gabbers and tweeters at a riot, drawing more people to the scene, reporting hysterical reports that are difficult to check, and so on. The rights of citizens journalists are not absolute.

In most big cities, journalists have to get police ID if they expect to go behind a police line or cover an emergency or some kind of public disaster. They have to have a letter from an editor who vouches for them, and typically that has to be from an established news agency with some kind of responsibility to the public. They have to show that they have publications that are relevant to obtaining a press pass from the police. This is normal and reasonable in a democratic society. Not everyone can get a pass to go behind police lines.

By the same token, not every would-be citizen journalist can expect that he is able to operate his cell phone in all areas constantly at his whim.

5. Wireless companies themselves should first of all have the authority to interrupt service as they are the best judge and best situated to see if their customers are using the service to incite imminent violence. They can be doing this in tandem with law enforcement. Police may require wireless companies to shut down all or part of their service, based on their observed use of the service, but the operators of the service themselves would likely be the first to notice problems like a flash mob converging on a riot.

6. I don't see any discretion that the FCC has whatsoever to approve or disapprove of shutdowns. There aren't sources of legal authority for this and it should stand down.

6d. Once again, the FCC is *\*not\** the entity to make determinations about the First Amendment or due process rights for wireless service users. This is a matter that must be left to the courts, full stop.

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